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SB35-19/20: Resolution Amending Expectations for Student Group Leaders

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The Associated Students of the University of Montana
Resolution Amending Expectations for Student Group Leaders
November 8, 2019
SB35-19/20

Authored by: Cierra Anderson, ASUM Senator;

Whereas, The Associated Students of the University of Montana (ASUM) is the official student government for the University of Montana;

Whereas, ASUM recently passed Senate Bill 16 – 19/20 (SB16), which established expectations for leaders of student groups;

Whereas, SB16 amended Article V, Section 4, Paragraph 1 of the ASUM Bylaws to read:

I. Officers of organizations seeking ASUM recognition must be University of Montana Students paying the ASUM activity fee. This requirement can be waived by recommendation from the Board on Member Organizations, and a 2/3 confirmation from the ASUM Senate. Student Group leaders may be removed from their position for committing a felony upon conviction in open court while enrolled at the University as a student or for committing any larceny against the University, ASUM, or any subsidiary thereof."

Whereas, Article IV of the ASUM Bylaws outlines impeachable offenses for Senators and includes misdemeanor offenses;

~~Whereas, SB16 omitted misdemeanors as a reason for removal for student group leaders;~~

Whereas, There are multiple jurisdictions with their own criminal statutes and a felony conviction in one jurisdiction may not be a felony in another jurisdiction;

Whereas, Some jurisdictions are limited as to the penalties they may impose for offenses and most of their convictions may be considered misdemeanors¹;

Whereas, There are a number of misdemeanors that, if a student group leader has been convicted of, should be a basis for removal from their position;

Whereas, The Montana Code Annotated (MCA) defines "misdemeanors" as offenses for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of one year or less²;

Whereas, A person commits the offense of assault if the person (a) purposely or knowingly causes bodily injury to another; (b) negligently causes bodily injury to another with a weapon; (c) purposely or knowingly causes reasonable apprehension of bodily injury in another³;

Whereas, Assault is a misdemeanor in the State of Montana because (2) a person convicted of assault shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both³;

¹ 25 U.S.C.S. § 1302(a)(7)(C)

² Mont. Code Ann. § 45-2-101

³ Mont. Code Ann. § 45-5-201

Whereas, A person commits the offense of negligent vehicle assault if the person operates a vehicle other than a bicycle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, and who causes bodily injury to another⁴;

Whereas, Negligent vehicle assault is a misdemeanor in the State of Montana because (2) a person convicted of the offense of negligent vehicular assault shall be fined an amount not to exceed \$1000, or incarcerated in a county jail for a term not to exceed one year, or both⁴;

Whereas, A person commits the offense of partner or family member assault if the person (a) purposely or knowingly causes bodily injury to a partner or family member; (b) negligently causes bodily injury to a partner or family member with a weapon; or (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member⁵;

Whereas, Partner or family member assault is a misdemeanor in the State of Montana until the third conviction because (3) (a)(i) an offender convicted of partner or family assault shall be fined an amount not less than \$100 or more than \$1000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense and (3)(a)(ii) an offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1000 and be imprisoned in the county jail not less than 72 hours or more than 1 year⁵;

Whereas, A person commits the offense of a violation of a no contact order if the person, with knowledge of the order, purposely or knowingly violates any provision of any order issued under 45-5-209; (b) each contact or attempt to make this contact with each protected person, directly or indirectly, is a separate offense⁶;

Whereas, Violations of no contact orders are misdemeanors in the State of Montana because (c) an offender convicted of violation of a no contact order shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both⁷;

Whereas, A person commits the offense of assault upon a sports official if, while the official is acting as an official at an athletic contest in any sport at any level of amateur or professional competition, the person (a) purposely or knowingly causes bodily injury to the sports official; (b) negligently causes bodily injury to the sports official with a weapon; (c) purposely or knowingly makes physical contact of an insulting or provoking nature with the sports official; or (d) purposely or knowingly causes reasonable apprehension of bodily injury in the sports official⁷;

Whereas, Assault upon a sports official is a misdemeanor in the State of Montana because (2) a person convicted of assault upon a sports official shall be fined an amount not to exceed \$1000 or be imprisoned in the county jail for any term not to exceed 6 months, or both⁸;

Whereas, A person commits the offense of stalking if the person (1) purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to: (a) fear for the person's own safety or the safety of a third person; or (b) suffer other substantial emotional distress⁸;

⁴ Mont. Code Ann. § 45-5-205

⁵ Mont. Code Ann. § 45-5-206

⁶ Mont. Code Ann. § 45-5-209(8)

⁷ Mont. Code Ann. § 45-5-211

⁸ Mont. Code Ann. § 45-5-220

Whereas, Stalking is a misdemeanor in the State of Montana because (4)(a) except as provided in subsection (4)(b)⁹, for the first offense, a person convicted of stalking shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1000, or both⁹;

Whereas, A person commits the offense of surreptitious¹⁰ visual observation or recordation in a place of residence if the person (1) purposely or knowingly hides, waits, or otherwise loiters in person or by means of a remote electronic device within or in the vicinity of a private dwelling house, apartment, or other place of residence for the purpose of: (a) watching, gazing at, or looking upon any occupant in the residence in a surreptitious¹¹ manner without the occupant's knowledge; or (b) by means of an electronic device, surreptitiously¹¹ observing or recording the visual image of any occupant in the residence without the occupant's knowledge¹¹;

Whereas, A person commits the offense of surreptitious¹¹ visual observation or recordation in public if the person (2) purposely or knowingly observes or records a visual image of the sexual or intimate parts of another person in a public place without the other person's knowledge when the victim has a reasonable expectation of privacy¹²;

Whereas, Surreptitious visual observation or recordation in a place of residence or public place is a misdemeanor in the State of Montana because (4) a person convicted of an offense under subsection (1) or (2) shall be fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed \$1000 or be incarcerated for a term not to exceed 1 year or both¹²;

Whereas, A person commits the offense of unlawful restraint if the person (1) knowingly or purposely and without lawful authority restrains another so as to interfere substantially with the other person's liberty¹²;

Whereas, Unlawful restraint is a misdemeanor in the State of Montana because (2) a person convicted of the offense of unlawful restraint shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both¹³;

Whereas, A person commits the offense of sexual assault if the person (1) knowingly subjects another person to any sexual contact without consent¹³;

Whereas, Sexual assault is a misdemeanor in the State of Montana because (2)(a) on a first conviction of sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both and (2)(b) on a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1000 or be imprisoned in the county jail for a term not to exceed 1 year, or both¹³;

⁹ Mont. Code Ann. § 45-5-220(4)(b) states "For a second or subsequent offense within 20 years or for a first offense when the offender violated any order of protection, when the offender used force or a weapon or threatened to use force or a weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both."

¹⁰ Merriam-Webster defines surreptitious as "done, made, or acquired by stealth"

¹¹ Mont. Code Ann. § 45-223

¹² Mont. Code Ann. §45-5-301

¹³ Mont. Code Ann. §45-5-502

Whereas, A person commits the offense of indecent exposure if the person (1) knowingly or purposely exposes the person's genitals or intimate parts by any means, including electronic communication, under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to: (a) abuse, humiliate, harass, or degrade another; or (b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person¹⁴;

Whereas, Indecent exposure is a misdemeanor in the State of Montana because (2)(a) a person convicted of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both and (2)(b) on a second conviction, the person shall be fined an amount not to exceed \$1000 or be imprisoned in the county jail for a term of not more than 1 year, or both¹⁵;

Whereas, A person commits the offense of violation of an order of protection if the person (1) with knowledge of the order, purposely or knowingly violates a provision of any order provided for in 40-4-121¹⁵ or an order of protection under Title 40, chapter 15 [...] ¹⁶;

Whereas, Violation of a protection order is a misdemeanor in the State of Montana because (3) an offender convicted of violation of an order of protection shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both, for a first offense. Upon conviction of a second offense, an offender shall be fined not less than \$200 and not more than \$500 and be imprisoned in county jail not less than 24 hours and not more than 6 months. Upon conviction for a third or subsequent offense, an offender shall be fined not less than \$500 and not more than \$2000 and be imprisoned in the county jail or state prison for a term not less than 10 days and not more than 2 years¹⁶;

Whereas, The above-mentioned offenses are all found in Title 45, chapter 5 of the Montana Code Annotated, which are Offenses Against the Person;

Whereas, The above-mentioned offenses wouldn't be considered a reason to disqualify a student group leader from their position;

Whereas, The above-mentioned offenses would be considered a reason to impeach an ASUM Senator from their position;

Whereas, The bill states that one of its purposes is to hold student group leaders to the "same standard as ASUM senators with regards to criminal misconduct"¹⁷;

Whereas, Omitting the offenses does not hold a student group leader to the "same standard as ASUM senators with regards to criminal misconduct"¹⁷;

Therefore, Let It Be Resolved, That Article V, Section 4, Paragraph 1 of the ASUM Bylaws be amended to read the following:

I. For the purposes of this section, the definitions in Article IV of these bylaws shall be used.

¹⁴ Mont. Code Ann. §45-5-504

¹⁵ Mont. Code Ann. §40-4-121 states the following orders: Temporary Order For Maintenance or Support, Temporary Injunction, or Temporary Restraining Order.

¹⁶ Mont. Code Ann. §45-5-626

¹⁷ SB16 – 19/20: Resolution Regarding Expectations for Student Group Leaders, Lines 49 - 50

177 II. *Officers of organizations seeking ASUM recognition must be University of Montana Students*
178 *paying the ASUM activity fee. Student group leaders may be disqualified from their position*
179 *for the following:*

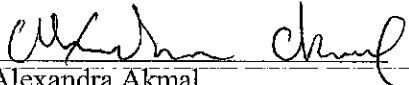
- 180 a. *Being convicted of a felony, or its equivalent in another jurisdiction;*
181 b. *Being convicted of a misdemeanor that is sexual in nature, or its equivalent in another*
182 *jurisdiction;*
183 c. *Being convicted of a misdemeanor that is violent in nature, or its equivalent in another*
184 *jurisdiction;*
185 d. *Committing larceny against the University, ASUM, or any subsidiary thereof.;*
186

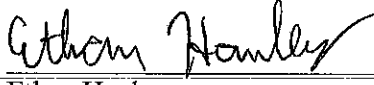
187
188 Therefore, Let It Be Resolved, That the numbering in the ASUM Bylaws be adjusted to reflect these
189 changes;


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191 Therefore, Let It Be Further Resolved, That this resolution be sent to Gwendolyn Coon, ASUM Office
192 Manager; Marlene Hendrickson, ASUM Accountant; Kenzie Carter, ASUM Student Group Coordinator;
193 and Lou Villemez, ASUM Legal Director.
194

195
196 Passed by Committee: November 17th, 2019

197
198 Passed by ASUM Senate: December 4th, 2019
199

200 
201
202 Alexandra Akmal,
203 Chair of the Relations and Affairs Committee
204


Ethan Hanley,
Chair of the Senate

205 
206
207 James Flanagan,
208 Chair of the Board on Members Organization
209

210
211 Resolution Passed: 21 Yes 0 No 3 Abstentions